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SENATE BILL 5588

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State of Washington                      57th Legislature                      2001 Regular Session

By Senators Prentice, Honeyford, Constantine and Sheahan

Read first time 01/26/2001. Referred to Committee on Ways & Means.

1            AN ACT Relating to tax exemptions for sales of food products sold  
2 through vending machines for human consumption; and amending RCW  
3 82.08.0293 and 82.12.0293.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            **Sec. 1.** RCW 82.08.0293 and 1988 c 103 s 1 are each amended to read  
6 as follows:

7            (1) The tax levied by RCW 82.08.020 shall not apply to sales of  
8 food products for human consumption.

9            "Food products" include cereals and cereal products, oleomargarine,  
10 meat and meat products including livestock sold for personal  
11 consumption, fish and fish products, eggs and egg products, vegetables  
12 and vegetable products, fruit and fruit products, spices and salt,  
13 sugar and sugar products, coffee and coffee substitutes, tea, cocoa and  
14 cocoa products.

15            "Food products" include milk and milk products, milk shakes, malted  
16 milks, and any other similar type beverages which are composed at least  
17 in part of milk or a milk product and which require the use of milk or  
18 a milk product in their preparation.

1 "Food products" include all fruit juices, vegetable juices, and  
2 other beverages except bottled water, spirituous, malt or vinous  
3 liquors or carbonated beverages, whether liquid or frozen.

4 "Food products" do not include medicines and preparations in  
5 liquid, powdered, granular, tablet, capsule, lozenge, and pill form  
6 sold as dietary supplements or adjuncts.

7 (2) The exemption of "food products" provided for in subsection (1)  
8 of this section shall not apply: (a) When the food products are  
9 ordinarily sold for immediate consumption on or near a location at  
10 which parking facilities are provided primarily for the use of patrons  
11 in consuming the products purchased at the location, even though such  
12 products are sold on a "takeout" or "to go" order and are actually  
13 packaged or wrapped and taken from the premises of the retailer, or (b)  
14 when the food products are sold for consumption within a place, the  
15 entrance to which is subject to an admission charge, except for  
16 national and state parks and monuments, or (c) to a food product, when  
17 sold by the retail vendor, which by law must be handled on the vendor's  
18 premises by a person with a food and beverage service worker's permit  
19 under RCW 69.06.010, including but not be limited to sandwiches  
20 prepared or chicken cooked on the premises, deli trays, home-delivered  
21 pizzas or meals, and salad bars but excluding:

22 (i) Raw meat prepared by persons who slaughter animals, including  
23 fish and fowl, or dress or wrap slaughtered raw meat such as fish  
24 mongers, butchers, or meat wrappers;

25 (ii) Meat and cheese sliced and/or wrapped, in any quantity  
26 determined by the buyer, sold by vendors such as meat markets,  
27 delicatessens, and grocery stores;

28 (iii) Bakeries which only sell baked goods;

29 (iv) Combination bakery businesses, as prescribed by rule of the  
30 department, to the extent that sales of baked goods are separately  
31 accounted for and the baked goods claimed for exemption are not sold as  
32 part of meals or with beverages in unsealed containers; or

33 (v) Bulk food products sold from bins or barrels, including but not  
34 limited to flour, fruits, vegetables, sugar, salt, candy, chips, and  
35 cocoa.

36 (3) Notwithstanding anything in this section to the contrary, the  
37 exemption of "food products" provided in this section shall apply to  
38 food products which are furnished, prepared, or served as meals:

1 (a) Under a state administered nutrition program for the aged as  
2 provided for in the Older Americans Act (P.L. 95-478 Title III) and RCW  
3 74.38.040(6); or

4 (b) Which are provided to senior citizens, disabled persons, or  
5 low-income persons by a not-for-profit organization organized under  
6 chapter 24.03 or 24.12 RCW.

7 ~~(4) ((Subsection (1) of this section notwithstanding, the retail  
8 sale of food products is subject to sales tax under RCW 82.08.020 if  
9 the food products are sold through a vending machine, and in this case  
10 the selling price for purposes of RCW 82.08.020 is fifty-seven percent  
11 of the gross receipts.~~

12 ~~This subsection does not apply to hot prepared food products, other  
13 than food products which are heated after they have been dispensed from  
14 the vending machine.~~

15 ~~For tax collected under this subsection, the requirements that the  
16 tax be collected from the buyer and that the amount of tax be stated as  
17 a separate item are waived.)) Subsection (2)(a) and (b) of this section  
18 do not apply to food products sold through vending machines. The  
19 exempt or nonexempt nature of the food is determined under subsection  
20 (1) of this section without regard to the location of the vending  
21 machine.~~

22 **Sec. 2.** RCW 82.12.0293 and 1988 c 103 s 2 are each amended to read  
23 as follows:

24 (1) The provisions of this chapter shall not apply in respect to  
25 the use of food products for human consumption.

26 "Food products" include cereals and cereal products, oleomargarine,  
27 meat and meat products including livestock sold for personal  
28 consumption, fish and fish products, eggs and egg products, vegetables  
29 and vegetable products, fruit and fruit products, spices and salt,  
30 sugar and sugar products, coffee and coffee substitutes, tea, cocoa and  
31 cocoa products.

32 "Food products" include milk and milk products, milk shakes, malted  
33 milks, and any other similar type beverages which are composed at least  
34 in part of milk or a milk product and which require the use of milk or  
35 a milk product in their preparation.

36 "Food products" include all fruit juices, vegetable juices, and  
37 other beverages except bottled water, spirituous, malt or vinous  
38 liquors or carbonated beverages, whether liquid or frozen.

1 "Food products" do not include medicines and preparations in  
2 liquid, powdered, granular, tablet, capsule, lozenge, and pill form  
3 sold as dietary supplements or adjuncts.

4 (2) The exemption of "food products" provided for in subsection (1)  
5 of this section shall not apply: (a) When the food products are  
6 ordinarily sold for immediate consumption on or near a location at  
7 which parking facilities are provided primarily for the use of patrons  
8 in consuming the products purchased at the location, even though such  
9 products are sold on a "takeout" or "to go" order and are actually  
10 packaged or wrapped and taken from the premises of the retailer, or (b)  
11 when the food products are sold for consumption within a place, the  
12 entrance to which is subject to an admission charge, except for  
13 national and state parks and monuments, or (c) to a food product, when  
14 sold by the retail vendor, which by law must be handled on the vendor's  
15 premises by a person with a food and beverage service worker's permit  
16 under RCW 69.06.010, including but not be limited to sandwiches  
17 prepared or chicken cooked on the premises, deli trays, home-delivered  
18 pizzas or meals, and salad bars but excluding:

19 (i) Raw meat prepared by persons who slaughter animals, including  
20 fish and fowl, or dress or wrap slaughtered raw meat such as fish  
21 mongers, butchers, or meat wrappers;

22 (ii) Meat and cheese sliced and/or wrapped, in any quantity  
23 determined by the buyer, sold by vendors such as meat markets,  
24 delicatessens, and grocery stores;

25 (iii) Bakeries which only sell baked goods;

26 (iv) Combination bakery businesses, as prescribed by rule of the  
27 department, to the extent that sales of baked goods are separately  
28 accounted for and the baked goods claimed for exemption are not sold as  
29 part of meals or with beverages in unsealed containers; or

30 (v) Bulk food products sold from bins or barrels, including but not  
31 limited to flour, fruits, vegetables, sugar, salt, candy, chips, and  
32 cocoa.

33 (3) Notwithstanding anything in this section to the contrary, the  
34 exemption of "food products" provided in this section shall apply to  
35 food products which are furnished, prepared, or served as meals:

36 (a) Under a state administered nutrition program for the aged as  
37 provided for in the Older Americans Act (P.L. 95-478 Title III) and RCW  
38 74.38.040(6); or

1 (b) Which are provided to senior citizens, disabled persons, or  
2 low-income persons by a not-for-profit organization organized under  
3 chapter 24.03 or 24.12 RCW.

4 (4) Subsection (2)(a) and (b) of this section do not apply to food  
5 products sold through vending machines. The exempt or nonexempt nature  
6 of the food is determined under subsection (1) of this section without  
7 regard to the location of the vending machine.

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